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IDAHO PUBLIC
UTILITIES COMMISSION

February 21, 2024

VIA ELECTRONIC FILING

Monica Barrios-Sanchez, Secretary
Idaho Public Utilities Commission
11331 W. Chinden Blvd., Bldg 8,
Suite 201-A (83714)
PO Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-24-03
Paul Madalena vs. Idaho Power Company

Dear Ms. Barrios-Sanchez:

Attached for electronic is Idaho Power Company's Answer in the above-entitled matter.

If you have any questions about the attached documents, please do not hesitate to contact me.

Very truly yours,



Megan Goicoechea Allen

MGA:sg
Enclosures

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Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

Paul and Kathleen Madalena,)	
)	Case No. IPC-E-24-03
Complainants,)	
)	IDAHO POWER COMPANY'S
vs.)	ANSWER
)	
Idaho Power Company,)	
)	
Respondent.)	
_____)	

COMES NOW, Idaho Power Company (“Respondent,” “Idaho Power” or “Company”), and pursuant to Procedural Rule 57, now answers the Summons of the Idaho Public Utilities Commission (“Commission”) dated January 31, 2024, concerning the formal Complaint (“Complaint”) of Paul and Kathleen Madalena (“Complainants” or “Madalenas”). Idaho Power requests the Commission deny the relief sought by the Complainant and dismiss the complaint with prejudice.

I. STATEMENT OF FACTS

1. Idaho Power's records reflect that it was contacted by Complainants regarding electrical issues at the Madalena residence located at 105 Sunset Circle in Buhl, Idaho, on August 23, 2023, at which time an Idaho Power technician was dispatched to assess whether Company-owned electrical equipment was functioning as expected. When the technician arrived, the Complainants indicated there had been some issues with various electrical equipment within the house but that everything was currently working.

2. The Idaho Power technician verified that the Company's equipment was operating pursuant to Company standards and confirmed that the connections were secure and the voltage was appropriate. After advising Mr. Madalena that the Company-owned equipment appeared to be functioning properly, the Idaho Power technician instructed him to notify the Company if further issues arose.

3. On August 28, 2023, the Complainants contacted the Company reporting "flickering lights", and in response, Idaho Power dispatched the same technician that responded on August 23rd to the Madalena residence. The Idaho Power technician again assessed the Company-owned electrical equipment and found that there was a slight variance of voltage from "phase-to-phase," though it was still within expected parameters. At the time of this visit, the Complainants' hired electrician was also on site and stated there had been some differences in the voltage readings on the customer's side of the panel with load on in the house and no issues with the Complainants' equipment were identified during his visit on August 23, 2023. Accordingly, the Idaho Power technician proceeded to isolate the Madalena's service and checked the voltage at the transformer

and the junction box. Voltage was good at both of these locations but a slight variance in voltage readings from phase to phase still remained at the meter base.

4. Given these circumstances, the technician determined that additional testing was warranted and an additional Idaho Power technician was dispatched to the Madalena residence that same day (August 28th) to help perform more in-depth testing. The results of the additional testing revealed a variance in voltage that was outside the expected parameters, meaning it was not operating within the Company's standard. A line crew was then dispatched to perform repairs.

5. On September 7, 2023, the Madalena's initiated a claim via the Company's online portal alleging damage to personal property caused by the Company's equipment. As part of its initial investigation of the claim, Idaho Power's Damage Claims Department contacted Complainants on September 8, 2023, and left a voicemail requesting a call back.

6. On September 12, 2023, an Idaho Power Damage Claim's representative spoke to Mrs. Madalena regarding the timeline of events related to the damage claim. At that time, Mrs. Madalena stated that on Wednesday, August 23, 2023, they awoke to the oven beeping and certain bedroom fans turning on and later found that the garage door did not work. As a result of these issues, the Madalenas contacted an electrician (Doug Gietzen) who, after visiting the premise, suggested that Idaho Power be contacted, resulting in Idaho Power's August 23rd visit.

7. Continuing her description of the timeline of events, Mrs. Madalena then indicated that on August 28, 2023, they again experienced electrical issues, citing problems with the following devices: cd player, outlet fragrances, light bulbs in the garage,

two power strips, and a DeWalt charger.

8. During the September 12th discussion, the Company's Damage Claims representative reviewed the submitted liability claim with Mrs. Madalena and advised her of the Company's standard practice as it relates to claims of this nature, which is to consider items that were damaged *after* Idaho Power is notified of an issue and has inspected the site. Accordingly, the representative informed Mrs. Madalena that Idaho Power would reimburse them for the damage that was identified between Idaho Power's first visit on August 23, 2023, and its subsequent visit on August 28, 2023. Damage reported to have occurred before Idaho Power's August 23rd visit, however, including the garage door failure would not be covered. At that point in the discussion, Mrs. Madalena stated the garage door was damaged after the August 23, 2023, visit.

9. The Idaho Power Damage Claims representative then advised Mrs. Madalena that she could complete a claim form along with any supporting evidence for Idaho Power to consider related to whether the expense associated with the garage door replacement was eligible for reimbursement.

10. At this point, Mrs. Madalena transferred the call to Mr. Madalena, and the Damage Claims representative explained that based on the timeline initially set forth by Mrs. Madalena, it appeared the garage door motor was damaged prior to notification to Idaho Power, and therefore would not be eligible for reimbursement.

11. On November 5, 2023, Complainant sent an email providing additional information regarding the claimed damages including receipts and photographs and the claim statement seeking \$885.00 (see "Receipt_Photos" filed with the initial complaint), which included: replacement commercial garage door opener \$710, two LED light bulbs

\$15, two power strips \$20, DeWalt battery charger \$10, two wall flowers from Bath and Body Works \$30, and an invoice for Doug Gietzen \$100.

12. After completing the investigation of the claim, the Idaho Power Damage Claims representative determined that of the amounts submitted, nine items totaling \$175 occurred after Idaho Power's visit on August 23rd, and thus were eligible for reimbursement under the Company's typical business practice. Because the garage door opener had been reported to have occurred prior to that visit, it was not included in the reimbursement offer. Complainants were advised of the Company's findings via email on November 20, 2023, along with the release for the Company's offer to reimburse the \$175.00 for damages that occurred after the first event. Mr. Madalena responded via email on November 29, 2023, declining to sign the release until he heard back from the Idaho Public Utilities Commission Consumer Affairs Staff.

13. It should be noted, that even if the Company had evidence that suggested the garage door issue occurred prior to the Company's initial visit, it is the Company's practice to determine reimbursement amount based on actual cash value, not the cost of a brand-new replacement item, which is what the Madalena's requested. According to the Claims Statement submitted to Idaho Power by Mr. Madalena,¹ the non-operational garage door opener was purchased with the home in 2010 and estimated to have been in use for 10 – 15 years after to the damage claim.

14. Following the Company's partial acceptance of their claim, the Complainants submitted an informal complaint to the Commission on November 28, 2023, regarding the Company's response to their claim. On December 13, 2023, Idaho

¹ Accessible in the Commission electronic case file in RECEIPTS_PHOTOS.PDF (page 12 of 12).

Power Damage Claims Department submitted a response to Staff's questions regarding this inquiry advising at the time of the initial visit on August 23, 2023, the tests performed indicated that the facilities were operating in conformity with the Company's standards and that it had denied the garage door damages due to Mrs. Madalena stating those damages were found prior to Idaho Power's initial visit on August 23, 2023.

II. ANSWER AND DEFENSES

15. The Company's investigation of Complainants' claim for property damage allegedly sustained in August of 2023, revealed that Idaho Power was dispatched to the Madalena's residence twice during that month: on August 23rd and August 28th. The Company-owned electrical facilities were found to be operating in conformity with the Company's standards on the first visit but an issue with the Company's equipment was identified on the second visit, which was then promptly repaired. The Complainants have requested that Idaho Power reimburse them for repair or replacement costs of several personal items that were allegedly damaged due to the Company's equipment.

16. As noted in Rule J of I.P.U.C. No. 30, Tariff No. 101, "[e]lectric service is inherently subject to occasional interruption, suspension, curtailment and fluctuation." The Company designs and operates its system in conformance with the service voltage ranges described in the current edition of standard C84.1 of the American National Standards Institute – *American National Standard for Electric Power Systems and Equipment – Voltage Ratings (60HZ)*. Although Idaho Power designs and maintains its facilities to meet or exceed industry standards, that does not always prevent unusual or unforeseen events resulting in power interruptions and/or momentary variations in power quality. Idaho Power includes protection devices throughout its system, and strongly

recommends customers also install their own equipment protection such as voltage surge arresters and back-up power source.² Rule K of Idaho Power's tariff also provides, in part, that a "customer should provide adequate protection for equipment...and property under the Customer's control from system disturbances such as (a) high and low voltage, (b) surges, harmonics, and transients in voltage, and (c) overcurrent."

17. As a utility regulated by the Commission that is statutorily required to provide non-discriminatory treatment to its customers, Idaho Power does not pay claims absent justification and full documentation that Idaho Power acted negligently to keep its electric service as affordable as possible for all customers. It is the Company's practice that if it is notified of an issue and the responding technician does not identify or fix a problem that is ultimately identified or remedied in a subsequent visit, the Company will reimburse the actual cash value for damage to customer-owned personal property that occurs after the Company's initial visit. Under these circumstances, a customer could have reasonably expected that any issues with the Company-owned electrical facilities had been resolved. If the Company identifies something is eligible for reimbursement, the policy is to reimburse the "actual cash value" of an item, which takes into consideration the expected useful life of an item; it does not reimburse at a "replacement value."

18. In accordance with this practice, the Company offered to reimburse the Madalenas the actual cash value for damage to those items identified as occurring between Idaho Power's first and second visits to the Madalenas' residence and denied liability for damage that it determined occurred prior its visit on August 23rd. The Madalenas disagree with the Company's decision on their claim and filed a complaint with

² See Idaho Power's website at: idahopower.com/accounts-service/damage-claims/how-to-protect-your-equipment/

the Commission as a result. The Company responds and defends against the Complaint as follows.

19. Mr. Madalena did not make specifically numbered allegations in his formal Complaint, but instead made general allegations in a narrative format. To the extent Mr. Madalena's allegations contain legal conclusions, no response is required. Idaho Power denies any allegation not specifically admitted and reserves the right to supplement and/or amend its Answer if the Madalenas amend their Complaint, respond to discovery requests, or if additional defenses are ascertained during the course of discovery or otherwise.

A. The Complaint Raises Issues Beyond the Commission's Jurisdiction and is Procedurally Insufficient.

20. The Commission is an agency of limited jurisdiction and may only exercise the authority delegated to it by the legislature. *Washington Water Power v. Kootenai Environmental Alliance*, 99 Idaho 875, 591 P.2d 122 (1979). The legislature has delegated to the Commission responsibility to regulate certain relationships between utilities and their customers, including by setting service rates, charges and terms of service pursuant to *Idaho Code* §§ 61-501, 502, 61-503, 61-507, and 61-612.

21. The Commission has also been granted the authority to determine the merits of any complaint "setting forth any act or thing done or omitted to be done by any public utility including any rule, regulation or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation of any provision of law or of any order or rule of the commission[.]" *Idaho Code* § 61-612.

22. Commission Rule of Procedure 54, IDAPA 31.01.01.054.03, sets forth the process for bringing formal complaints against a public utility, and specifies that

complaints must be in writing and include certain information including, in pertinent part, reference “to the specific provision of statute, rule, order, notice, tariff, or other controlling law” that the utility allegedly violated. See IDAPA 31.01.01.054.03. Rule 65, IDAPA 31.01.01.065, provides that insufficient or defective filings may be dismissed.

23. Mr. Madalena’s complaint sets forth factual allegations in a narrative format but does not indicate how the Complainant believes such circumstances constitute a violation of the Commission’s rules or laws. This failure to refer to specific provisions of statute, rule, order, notice, tariff, or other controlling law that the Company allegedly violated is contrary to the requirements of Rule of Procedure 54.03.

24. Moreover, the Complainant does not present a claim that the Commission is empowered to remedy. As a regulatory Commission, it has no authority to award damages except as given to it by statute.³ “Although the Commission is often described as a quasi-judicial agency, the Commission is not a judicial court. Thus, persons injured by public utilities have recourse through the courts.”⁴ Damage claims for trespass or injury to personal property are tort matters that do not raise a utility customer issue within the Commission’s jurisdiction.⁵

³ See *Grace Joint Sch. Dist. No. 148, Complainant*, No. QWET1004, 2010 WL 2235243, at *3 (June 3, 2010) (“Since the Commission’s inception in 1913, it has not been authorized to award damages under the Public Utilities Act.”)

⁴ *Id.* To this point, Idaho Code § 61-702 provides that “any corporation or person” injured by the conduct of a public utility may file an “action to recover such loss, **damage** or injury ... in any court of competent jurisdiction...” (Emphasis added.)

⁵ *City of Spencer, Complainant v. PacifiCorp DBA Utah Power & Light Company, Respondent*, Case No, UPL-E-91-05, Order No. 24114 (January 1992); *Pamela and Scott Bowers, Complainants v. Idaho Power Company, Respondent*, Case No. IPC-E-07-14, Order No. 30615 at 6 (August 7, 2008); *Grace Joint School District No. 148, Complainant v. Qwest Corporation, Respondent*, Case No. QWE-T-10-04, Order No. 31099 (June 3, 2010); *In the Matter of Idaho Power Company's Petition for a Declaratory Ruling Regarding its Rights and Obligations under Schedule 15*, Case No. IPC-E-14-10, Order No. 33065 at 2 (June 27, 2014).

25. The gravamen of the Madalenas' Complaint is a claim for damage to personal property seeking for monetary relief, which is not within the purview of the Commission.

26. Because the Complaint fails to satisfy Commission rules and seeks relief that the Commission is not authorized to provide, the Company believes the Complaint fails on procedural grounds and should be dismissed on that basis. Notwithstanding, as more fully set forth below, the Company also affirmatively avers that it acted in conformity with regulatory requirements and consistent with its normal practices in relation to the Madalenas claim.

B. The Company Handling of and Response to the Madalena's Claim is Consistent with the Utility Tariffs on File with the Commission and Normal Company Practices.

27. Idaho Power is required to follow the Commission's prior orders as well as the utility tariffs on file with the Commission. This concept, known as the "filed rate doctrine," is a basic principle of utility regulation that states that a utility may charge only the approved rates and charges it has on file with its regulatory body.

28. Together, *Idaho Code* §§ 61-313 and 61-315 codify the concepts that make up the filed rate doctrine for the State of Idaho. *Idaho Code* § 61-313 provides, in pertinent part, that no refund or remit of any rates or charges may be made, and *no contract or agreement extended except as specified by tariff and as are regularly and uniformly extended to all corporations or persons*. Similarly, *Idaho Code* § 61-315 codifies the concept of non-discriminatory service and prohibits a utility from giving preferential treatment to any customer or customer class over another.

29. Idaho Power conducted a thorough investigation of the Madalenas' claim and request for reimbursement and, based on the information provided by Complainants and in accordance with the Company's tariff and standard practices, Idaho Power denied the portion of the Complainants' claim related to property damage the Company found occurred prior to its first visit on August 23, 2023. Idaho Power's position, pursuant to Rule J, is consistent with its normal response to similar claims by other customers.

30. The Company's decision on the Madalena's claim was based on the information the Complainants themselves provided. In going through the timeline of events and damaged items with Mrs. Madalena on September 12, 2023, she indicated that the issues that precipitated their calling of an electrician on August 23, 2023⁶ included the oven beeping, bedroom fans coming on, and the garage door not working. She then identified issues with the following items as occurring on August 28th: cd player, outlet fragrances, light bulbs in the garage, two power strips, and a DeWalt charger.

31. Significantly, it was not until after the Company's Damage Claims representative explained that only damage that occurred between the Company's first and second visits would be eligible for reimbursement that Mrs. Madalena claimed that the issue with the garage door actually did occur during that time frame. In evaluating the Madalena's claim, the Company's Damage Claims representative considered the inconsistencies and discrepancies in the record, and ultimately, did not believe the record supported finding that the garage door opener was damaged subsequent to the

⁶ As a point of clarity, the Company notes that both the Complaint and the Claims Statement completed by Complainants indicate that the first issue with their electrical equipment arose on August 21st. However, Idaho Power has no record of a dispatch call for this location on August 21, 2023; rather, the Company's records indicate it was contacted about the Madalena's residence on August 23, and a technician was dispatched the same day, which is consistent with Mrs. Madalena's initial statement.

Company's August 23rd visit.

32. The Complaint highlights another discrepancy underlying the claim for damages insofar and it indicates that the Company approved "the cost of the two power strips, which happened during the first event." The Company's approval of the cost of the two power strips was again based on the information provided by Mrs. Madalena, who listed those items as having been damaged after the initial event.

33. Idaho Power conducted its investigation of the Madalenas' claim according to the applicable rules and tariffs and offered to resolve it in a manner consistent with how the Company handles similar customer claims. A deviation from normal practices to accommodate a single customer implicates the "filed rate doctrine" and would imply impermissible preferential treatment of that customer.

III. COMMUNICATIONS AND SERVICE OF PLEADINGS

34. Service of pleadings and communications with reference to this case should be sent to the following:

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IV. CONCLUSION

35. As described above, the Company believes the Complaint is subject to dismissal because it seeks relief outside the Commission's jurisdiction, is procedurally insufficient, and fails to state a claim upon which relief can be granted. Moreover, the Complaint should be dismissed because the Company acted appropriately and in compliance with its tariffs and normal business practices.

WHEREFORE, Idaho Power respectfully requests the Commission issue an Order denying the relief sought by the Complainants and dismissing the Complaint with prejudice. In the alternative, in the event the Commission determines that the Complaint presents a colorable and actionable regulatory claim and disagrees with the Company's findings on eligibility for reimbursement, the Company respectfully requests the amount of reimbursement be based on assessment the actual cash value of the garage opener as opposed to the replacement value, which is consistent with the Company's normal practices.

Dated at Boise, Idaho, this 21st day of February 2024.



MEGAN GOICOECHEA ALLEN
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of February 2024, I served a true and correct copy of the within and foregoing IDAHO POWER COMPANY'S ANSWER upon the following named parties by the method indicated below, and addressed to the following:

Commission Staff

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Stacy Gust, Regulatory Administrative Assistant